



Reprinted  
April 3, 2001

---

---

## ENGROSSED HOUSE BILL No. 1341

---

DIGEST OF HB 1341 (Updated April 2, 2001 3:20 PM - DI 105)

**Citations Affected:** IC 25-36.5.

**Synopsis:** Timber buyers. Provides that the owner of real estate is not required to post a bond to seek an injunction to stop timber from being cut on the owner's land. Provides that a person who commits a violation of buying timber without first securing a registration or refusing to allow the inspection of the person's records, commits a Class B infraction. Makes the offense a Class D felony if the person knowingly or intentionally commits the offense, and has a prior, unrelated conviction for the offense.

**Effective:** July 1, 2001.

---

---

### Lytle, Cherry, Foley, Bottorff

(SENATE SPONSORS — LEWIS, WHEELER)

---

---

January 9, 2001, read first time and referred to Committee on Courts and Criminal Code.  
February 20, 2001, amended, reported — Do Pass.  
February 26, 2001, read second time, made special order of business for 11:00 a.m. on February 27, 2001.

February 27, 2001, reread second time, amended, ordered engrossed.

February 28, 2001, engrossed.

March 5, 2001, read third time, passed. Yeas 97, nays 0.

#### SENATE ACTION

March 7, 2001, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.

March 29, 2001, reported favorably — Do Pass.

April 2, 2001, read second time, amended, ordered engrossed.

---

---

C  
o  
p  
y

EH 1341—LS 7542/DI 77+



Reprinted  
April 3, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## ENGROSSED HOUSE BILL No. 1341

---

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 25-36.5-1-3 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) Every person  
3 registered as a timber buyer shall file with the department an effective  
4 surety bond issued by a corporate surety authorized to engage in the  
5 business of executing surety bonds in Indiana.  
6 (b) Instead of the bond required by subsection (a), the department  
7 may accept security in cash or a certificate of deposit under terms  
8 established by rule.  
9 (c) The security required under subsection (a) or (b) shall be made  
10 payable upon demand to the director, subject to this chapter, for the use  
11 and benefit of the people of Indiana and for the use and benefit of any  
12 timber grower from whom the applicant purchased and who is not paid  
13 by the applicant or for the use and benefit of any timber grower whose  
14 timber has been cut by the applicant or registrant or his agents, and  
15 who has not been paid therefor.  
16 (d) The security required under subsection (a) or (b) shall be in the  
17 principal amount of two thousand dollars (\$2,000) for an applicant who

EH 1341—LS 7542/DI 77+



C  
o  
p  
y

1 paid timber growers five thousand dollars (\$5,000) or less for timber  
 2 during the immediate preceding year, and an additional one hundred  
 3 dollars (\$100) for each additional one thousand dollars (\$1,000) or  
 4 fraction thereof paid to timber growers for timber purchased during the  
 5 preceding year, but shall not be more than twenty thousand dollars  
 6 (\$20,000). In the case of an applicant not previously engaged in  
 7 business as a timber buyer, the amount of such bond shall be based on  
 8 the estimated dollar amount to be paid by such timber buyer to timber  
 9 growers for timber purchased during the next succeeding year, as set  
 10 forth in the application.

11 (e) The security required under subsection (a) or (b) shall not be  
 12 cancelled or altered during the period for which the certificate to the  
 13 applicant was issued except upon at least sixty (60) days notice in  
 14 writing to the department.

15 (f) Security shall be in such form, contain such terms and conditions  
 16 as may be approved from time to time by the director, be conditioned  
 17 to secure an honest cutting and accounting for timber purchased by the  
 18 registrant, secure payment to the timber growers, and insure the timber  
 19 growers against all fraudulent acts of the registrant in the purchase and  
 20 cutting of the timber of this state.

21 (g) If a timber buyer fails to pay when due any amount due a timber  
 22 grower for timber purchased, or fails to pay legally determined  
 23 damages for timber wrongfully cut by a timber buyer or his agent, or  
 24 commits any violation of this chapter, an adjudicative proceeding on  
 25 the bond for forfeiture may be commenced, and notice of the  
 26 proceeding shall be provided, under IC 4-21.5-3-6. A surety or person  
 27 in possession of the security provided under subsection (a) or (b) is  
 28 entitled to notification of the proceeding. If a final agency action is  
 29 entered by the department under this subsection against the timber  
 30 buyer, the surety or other person in possession of the security shall  
 31 deliver the amount of the security identified in the order. A proceeding  
 32 for forfeiture of a timber buyer's bond under IC 4-21.5 is the exclusive  
 33 remedy under law for the forfeiture of the bond.

34 **(h) An owner of real estate seeking an injunction against a**  
 35 **person, a corporation, or other entity from the wrongful cutting of**  
 36 **timber on the owner's real estate is relieved from having to post a**  
 37 **bond. This provision does not pertain to any alleged wrongful**  
 38 **cutting between the property owner and any timber cutter or**  
 39 **timber buyer with whom the property owner had contracted to buy**  
 40 **and cut any timber.**

41 SECTION 2. IC 25-36.5-1-10 IS AMENDED TO READ AS  
 42 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10. (a) Except as

C  
o  
p  
y



1 **provided in subsection (b), a person who:**  
2 (1) engages in business as a timber buyer without securing a  
3 registration or in violation of this chapter; or  
4 (2) refuses to permit inspection of ~~his~~ **the person's** premises,  
5 books, accounts, or records as provided in this chapter;  
6 commits a Class B misdemeanor.  
7 **(b) A person who knowingly or intentionally:**  
8 **(1) engages in business as a timber buyer without securing a**  
9 **registration or in violation of this chapter; or**  
10 **(2) refuses to permit an inspection of the person's premises,**  
11 **books, accounts, or records as provided by this chapter;**  
12 **commits a Class D felony if the person has a prior unrelated**  
13 **conviction under subsection (a).**

C  
o  
p  
y

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1341, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 2, delete "(a) Except as".

Page 1, line 3, delete "provided in subsection (b), a" and insert "A".

Page 1, line 8, strike "Class B" and insert "**Class A**".

Page 1, line 8 after "misdemeanor." insert "**However, the offense is a Class D felony if the person has a prior unrelated conviction for an offense under this section.**".

Page 1, delete lines 9 through 12.

and when so amended that said bill do pass.

(Reference is to HB 1341 as introduced.)

DVORAK, Chair

Committee Vote: yeas 13, nays 0.

C  
o  
p  
y



## HOUSE MOTION

Mr. Speaker: I move that House Bill 1341 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 25-36.5-1-3 IS AMENDED TO READ AS FOLLOWS: Sec. 3. (a) Every person registered as a timber buyer shall file with the department an effective surety bond issued by a corporate surety authorized to engage in the business of executing surety bonds in Indiana.

(b) Instead of the bond required by subsection (a), the department may accept security in cash or a certificate of deposit under terms established by rule.

(c) The security required under subsection (a) or (b) shall be made payable upon demand to the director, subject to this chapter, for the use and benefit of the people of Indiana and for the use and benefit of any timber grower from whom the applicant purchased and who is not paid by the applicant or for the use and benefit of any timber grower whose timber has been cut by the applicant or registrant or his agents, and who has not been paid therefor.

(d) The security required under subsection (a) or (b) shall be in the principal amount of two thousand dollars (\$2,000) for an applicant who paid timber growers five thousand dollars (\$5,000) or less for timber during the immediate preceding year, and an additional one hundred dollars (\$100) for each additional one thousand dollars (\$1,000) or fraction thereof paid to timber growers for timber purchased during the preceding year, but shall not be more than twenty thousand dollars (\$20,000). In the case of an applicant not previously engaged in business as a timber buyer, the amount of such bond shall be based on the estimated dollar amount to be paid by such timber buyer to timber growers for timber purchased during the next succeeding year, as set forth in the application.

(e) The security required under subsection (a) or (b) shall not be cancelled or altered during the period for which the certificate to the applicant was issued except upon at least sixty (60) days notice in writing to the department.

(f) Security shall be in such form, contain such terms and conditions as may be approved from time to time by the director, be conditioned to secure an honest cutting and accounting for timber purchased by the registrant, secure payment to the timber growers, and insure the timber growers against all fraudulent acts of the registrant in the purchase and cutting of the timber of this state.

**EH 1341—LS 7542/DI 77+**



C  
o  
p  
y

(g) If a timber buyer fails to pay when due any amount due a timber grower for timber purchased, or fails to pay legally determined damages for timber wrongfully cut by a timber buyer or his agent, or commits any violation of this chapter, an adjudicative proceeding on the bond for forfeiture may be commenced, and notice of the proceeding shall be provided, under IC 4-21.5-3-6. A surety or person in possession of the security provided under subsection (a) or (b) is entitled to notification of the proceeding. If a final agency action is entered by the department under this subsection against the timber buyer, the surety or other person in possession of the security shall deliver the amount of the security identified in the order. A proceeding for forfeiture of a timber buyer's bond under IC 4-21.5 is the exclusive remedy under law for the forfeiture of the bond.

**(h) An owner of real estate seeking an injunction against a person, corporation or other entity from the wrongful cutting of timber on the owner's real estate is relieved from having to post a bond. This provision does not pertain to any alleged wrongful cutting between the property owner and any timber cutter or timber buyer with whom the property owner had contracted to buy and cut any timber."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1341 as printed February 21, 2001.)

STEELE

C  
O  
P  
Y



## COMMITTEE REPORT

Mr. President: The Senate Committee on Corrections, Criminal and Civil Procedures, to which was referred House Bill No. 1341, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to House Bill 1341 as reprinted February 28, 2001.)

LONG, Chairperson

Committee Vote: Yeas 8, Nays 0.

C  
o  
p  
y

EH 1341—LS 7542/DI 77+





## SENATE MOTION

Mr. President: I move that House Bill 1341 be amended to read as follows:

Page 1, line 2, after "FOLLOWS" insert "[EFFECTIVE JULY 1, 2001]".

Page 2, line 35, delete "corporation" and insert "**a corporation,**".

Page 2, line 42, delete "A" and insert "**(a) Except as provided in subsection (b), a**".

Page 3, line 5, reset in roman "Class B".

Page 3, line 5, delete "Class A".

Page 3, line 5, delete "However, the offense is a".

Page 3, delete lines 6 through 7, begin a new paragraph and insert:

**"(b) A person who knowingly or intentionally:**

**(1) engages in business as a timber buyer without securing a registration or in violation of this chapter; or**

**(2) refuses to permit an inspection of the person's premises, books, accounts, or records as provided by this chapter;**

**commits a Class D felony if the person has a prior unrelated conviction under subsection (a)."**

(Reference is to EHB as printed March 30, 2001.)

LEWIS

C  
o  
p  
y

